

California Labor and Workforce Development Agency



Edmund G. Brown Jr.
Governor

Joint Enforcement Strike Force on the Underground Economy

2014 Report

**Employment Development Department
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JOINT ENFORCEMENT STRIKE FORCE OVERVIEW, MEMBERS, AND PARTICIPATING ENTITIES

This legislatively mandated report provides the annual summary of activities and outcomes from the Joint Enforcement Strike Force (JESF) on the Underground Economy in accordance with Section 329(d) of the California Unemployment Insurance Code (CUIC). In October 1993, Executive Order W-66-93 established the JESF to combat the underground economy by pooling resources and sharing data among the state agencies charged with enforcing licensing, labor, and payroll tax laws.

On January 1, 1995, Section 329 was added to the CUIC, which placed the provisions of the Executive Order into law. The JESF members are the Employment Development Department (EDD), which is the lead agency, the Department of Consumer Affairs (DCA), the Department of Industrial Relations (DIR), and the California Department of Insurance (CDI). The Office of Criminal Justice Planning was a member; however, that office no longer exists. The Franchise Tax Board (FTB), the Board of Equalization (BOE), the Department of Justice, the California Department of Alcoholic Beverage Control (ABC), the United States Department of Labor (USDOL), the Internal Revenue Service (IRS), and District Attorneys throughout California are not statutory partners but participate in the JESF to combat the underground economy. The EDD Director or designee serves as the chairperson of the JESF.

The **EDD's Tax Branch** works with employers to collect California's employment taxes and data to support the employment security, child support, and personal income tax programs. The Tax Branch is committed to providing service to California employers and Unemployment Insurance, Disability Insurance, and Paid Family Leave benefit claimants; and to increasing voluntary compliance with payroll tax laws through education, simplified reporting processes, and the promotion of fair business competition. The EDD's **Investigation Division Criminal Tax Enforcement Program** is a specialized law enforcement unit that investigates criminal violations of the CUIC, the California Penal Code, and the United States Code for federal prosecutions. They conduct surveillance, perform undercover operations, interview witnesses, initiate search warrants, and submit completed investigations to prosecutors to convict individuals who commit employment tax fraud. The EDD determines if the convicted party made restitution, is still on active probation, and obeys all laws with respect to the future filing of returns and payments. The conviction itself and the collection of the tax liabilities play an integral part in deterring the underground economy. The EDD also collaborates on workers' compensation insurance investigations related to state payroll tax violations.

The **DCA** protects and serves California consumers and ensures a competent and fair marketplace. The DCA helps consumers learn how to protect themselves from unscrupulous and unqualified individuals. The DCA protects professionals from unfair competition by identifying unlicensed practitioners.

The **DCA – Contractors’ State License Board (CSLB)** protects consumers by licensing and regulating California's construction industry. There are about 300,000 licensed contractors in the state, in 43 different licensing classifications. In addition to consumer education on contractor and construction law, CSLB activities include: administer prospective licensee examinations; issue licenses; investigate complaints against licensed and unlicensed contractors; issue citations; suspend or revoke licenses; and seek administrative, criminal, and civil sanctions against violators. The **CSLB’s Statewide Investigative Fraud Team (SWIFT)** is set up to monitor and combat illegal activity. They have teams throughout the state that conduct sting operations on a regular basis and sweep construction sites. They also conduct joint operations and sweeps with other state agencies dedicated to combat the underground activity.

The **DCA – Bureau of Automotive Repair (BAR)** investigates general auto repair complaints and ensures that shops comply with Smog Check statutes. Each year, the BAR handles more than 14,800 complaints related to auto repair and/or Smog Check inspections. The BAR staff investigates complaints and negotiates with the shop on the consumer's behalf to achieve a mutually agreeable resolution. The bulk of complaints are resolved by mediation. Each year, the BAR returns over \$6.3 million to California consumers in the form of direct refunds, rework, or adjustments.

The **DCA – Bureau of Security and Investigative Services (BSIS)** protects consumers by licensing and regulating the following industries: alarm company operators and alarm company employees; locksmith companies and locksmith company employees; private investigators; private patrol operators and security guards; proprietary private security officers and employers; reposessor agencies and reposessor agency employees; and training facilities and training instructors. As part of its mission, the BSIS actively investigates complaints against its licensees and works to punish unlicensed business operations. This includes the suspension and revocation of licenses and seeking administrative, criminal, and civil sanctions against violators. Undercover sting and sweep operations are conducted on an ongoing basis throughout California. The BSIS also educates consumers, administers examinations to validate prospective licensees, and issues licenses and permits.

The **DIR - Division of Labor Standards Enforcement’s (DLSE), Bureau of Field Enforcement** is responsible for the investigation and enforcement of statutes covering workers’ compensation insurance coverage, child labor, cash pay, unlicensed contractors, Industrial Welfare Commission orders, and group claims involving minimum wage and overtime claims. The Bureau of Field Enforcement also handles criminal investigations involving these group claims.

The **DIR – Division of Occupational Safety and Health’s** enforcement unit has jurisdiction over every employment situation and place of employment in California, which is necessary to adequately enforce and administer all occupational safety and health standards and regulations. They conduct inspections of California workplaces in response to a report of an industrial accident, a complaint about an occupational safety

and health hazard, or as part of an inspection program targeting industries which have a high rate of occupational hazards, fatalities, injuries, or illnesses.

The **CDI** ensures that consumers are protected; the insurance marketplace is fostered to be vibrant and stable; the regulatory process is maintained as open and equitable; and the law is enforced fairly and impartially. The **Fraud Division** is charged with investigating insurance fraud, which includes the crimes of intentional misrepresentation of payroll and employee staffing in order to obtain lower rates for workers' compensation insurance. Studies suggest that the aggressive anti-fraud campaign by the CDI, the district attorneys, the insurance industry, and California employers continue to play a substantial role in reducing crime and help lower workers' compensation insurance premiums for employers statewide.

The **FTB's** primary function is to administer the Revenue and Taxation Code. Elected officials determine the tax policy for raising revenue. Under the direction of the FTB's Chief Law Enforcement Officer, the **Criminal Investigation Bureau (CIB)** enforces the criminal provisions of the Revenue and Taxation Code. The CIB's principal mission is to identify, investigate, prosecute, and deter tax evasion and fraud, and encourage compliance with California income tax laws while maintaining the public's trust through publicity. The CIB takes over where voluntary compliance and civil enforcement efforts end. Special agents with full peace officer powers investigate alleged criminal violations of the Revenue and Taxation Code, principally income tax fraud and evasion, and assist in prosecuting non-compliant individuals. The special agents' efforts are supported by forensic auditors, collectors, analysts, and support staff; basically a micro-organization all in one bureau. The CIB also relies on a strong collaborative enterprise to accomplish their mission.

The **BOE** administers tax programs in four general areas: sales and use taxes, property taxes, special taxes and fees, and the tax appellate program. The BOE's **Investigations Division** plans, organizes, directs, and oversees all criminal investigative activities for the various programs administered by the BOE. Its goals are to identify tax evasion and new fraud schemes and actively investigate and assist in the prosecution of individuals who are violating the laws administered by the BOE.

The **Department of Justice** Attorney General works to protect California's workers, legitimate businesses, and taxpayers through the **Underground Economy Unit**. The Underground Economy Unit brings civil and criminal actions against persons engaged in the underground economy. It has used California laws to obtain restitution of unpaid wages, civil penalties, and injunctions to bring businesses into compliance with applicable labor, tax, and licensing laws. These enforcement efforts deter underground economy violations, recapture lost revenues, and protect workers and legitimate businesses from illegal and predatory enterprises. The Underground Economy Unit has prosecuted cases involving: wage, tax, and insurance issues including the theft of wages, unpaid overtime, denial of breaks, payroll tax evasion, and misclassification of employees as independent contractors; patterns of safety violations leading to fatal

workplace injuries; workers' compensation insurance premium fraud; and the illegal avoidance of workers' compensation coverage for employees.

The **USDOL's** mission is to foster, promote, and develop the welfare of the wage earners, job seekers, and retirees of the United States; improve working conditions; advance opportunities for profitable employment; and assure work-related benefits and rights. The **Fair Labor Standards Act** prescribes standards for wages and overtime pay, which affect most private and public employment. The act is administered by the **Wage and Hour Division**. It requires employers to pay covered employees, who are not otherwise exempt, at least the federal minimum wage and overtime pay of one and one-half times the regular rate of pay. For non-agricultural operations, it restricts the hours that children under age 16 can work and forbids the employment of children under age 18 in certain jobs deemed too dangerous. For agricultural operations, it prohibits the employment of children under age 16 during school hours and in certain jobs deemed too dangerous. The Wage and Hour Division also enforces the labor standards provisions of the **Immigration and Nationality Act** that apply to aliens authorized to work in the United States under certain non-immigrant visa programs (H-1B, H-1B1, H-1C, H-2A).

The **ABC's** agents are peace officers under Section 830.2 of the California Penal Code and are empowered to investigate and make arrests for violations of the Business and Professions Code that occur on or about licensed premises. Agents are further empowered to enforce any penal provisions of the law in the state. Licensees who violate state laws or local ordinances are subject to disciplinary action and may have their licenses suspended or revoked. These licensees are entitled to a hearing before an Administrative Law Judge and an appellate process to the State Supreme Court.

The **IRS'** mission is to provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all. In fiscal year 2014, the IRS collected almost \$3.1 trillion in revenue and processed almost 240 million tax returns.

BACKGROUND AND PROGRAM INFORMATION

The Underground Economy

The actual size of the underground economy is difficult to measure. Estimates are that underground activity in the United States in 2012 totaled as much as \$2 trillion, according to a study by Edgar Feige, an economist at the University of Wisconsin-Madison. In 2012, the IRS released a new set of tax gap estimates for tax year 2006. The tax gap is defined as the amount of tax liability faced by taxpayers that is not paid on time. After adjusting for audit and collection activities, the IRS estimates that in 2006 the net national tax gap was approximately \$385 billion. In its March 2015 report, California's Little Hoover Commission indicated "The underground economy also robs the state of an estimated \$8.5 billion to \$10 billion in uncollected tax revenue, money that could fund education, law enforcement or long-overdue infrastructure investments or reduce taxes for the majority of Californians who play by the rules."

Barron's Online featured the article, *Going Underground*, on January 3, 2005. This article states, in part:

"America has two economies, and one is flourishing at the expense of the other. First, there's the legitimate economy, in which craftsmen are licensed and employers and employees pay taxes. Then there's the fast-growing underground economy, where millions of workers are paid off-the-books, their incomes largely untaxed."

Reports on the underground economy indicate it imposes a significant burden on revenue needed to fund critical state programs and businesses that comply with the law. When businesses operate in the underground economy, they gain an unfair, competitive advantage over businesses that comply with labor, licensing, and payroll tax laws. This causes unfair competition in the marketplace and forces law-abiding businesses to pay higher taxes and expenses.

Workers of non-compliant businesses are also affected. Their working conditions may not meet the legal requirements, which can put them in danger. Their wage earnings may be less than what is required by law, and benefits they are entitled to can be denied or delayed because their wages are not properly reported. Consumers can also be affected when contracting with unlicensed businesses. Licensing provisions are designed to ensure sufficient skill and knowledge to protect consumers.

As illustrated above, the underground economy impacts not only businesses but workers and consumers as well.

Joint Enforcement Strike Force Goals

The JESF's goals are intended to help restore economic stability and to improve working conditions and consumer and worker protection in the state. The goals of the JESF are to:

- Eliminate unfair business competition.
- Protect workers by ensuring that they receive all compensation, benefits, and worker protections they are entitled to by law relating to their employment.
- Protect consumers by ensuring that all businesses are properly licensed and that they adhere to the state's consumer protection regulations.
- Reduce the burden on law-abiding citizens and businesses by ensuring that all businesses and individuals comply with the state's licensing, regulatory, and payroll tax laws.
- Reduce the tax gap by increasing voluntary compliance with the state's payroll tax laws to maximize the state's General and Special Fund revenues.

INFORMATION REQUIRED BY SECTION 329(d) OF THE CALIFORNIA UNEMPLOYMENT INSURANCE CODE

Blatant Violations and Non-compliance

The EDD works with the JESF partner agencies to conduct joint on-site business inspections to identify employers who operate in the underground economy. The EDD also conducts desk investigations using various databases and income tax return analysis to detect non-compliance and fraud. When these inspections and investigations reveal non-compliance, the case is referred as an audit lead to the EDD's Tax Audit Program. In addition, the EDD receives audit leads from the IRS through the Questionable Employment Tax Practices (QETP) Program. On all QETP audit leads that the IRS provides, the employers concurred with the IRS' findings regarding unreported wages and/or misclassified workers.

Employment Development Department Cumulative Results

Following are the EDD's cumulative results from JESF inspections, investigations, and QETP leads for calendar years 2013 and 2014:

Calendar Year	2013	2014
Joint Inspections	807	614
EDD Audit Referrals	1,028	958
EDD Payroll Tax Audits Completed	491	686
EDD Payroll Tax Assessments on all Audits	\$17,031,352	\$25,015,050
Previously Unreported Employees on all Audits	6,912	11,354
Payroll Tax Assessments Collected	\$5,063,677	\$5,597,028
EDD Payroll Tax Audits with Fraud Penalty Assessed (included in figures above)	25	22
EDD Payroll Tax Assessments on Fraud Audits (included in figures above)	\$2,627,394	\$5,160,767
Previously Unreported Employees on Fraud Audits (included in figures above)	541	391

Criminal Tax Enforcement Program Results

For cases warranting criminal investigation, the EDD Investigation Division's Criminal Tax Enforcement Program works with law enforcement agencies and the JESF partner agencies throughout California to identify and prosecute those responsible for the criminal activities. Following are the EDD Criminal Tax Enforcement Program results for the calendar year 2014:

Type of Action	# of Cases	Amount of Tax Liability
Payroll Tax Evasion Cases in Progress	182	\$90,716,914
EDD Criminal Complaints Filed	15	\$2,318,149
EDD Criminal Prosecutions Completed	35	\$9,318,288

Contractors' State License Board Legal Actions

Each month, the CSLB conducts stings and sweeps, which resulted in 917 legal actions for the calendar year 2014. As a result of 221 licensee citations and 205 non-licensee citations, the CSLB assessed \$475,650 in civil penalties.

Accusations	8
Administrative Licensee Citations	221
Criminal Referrals – Licensee	20
Criminal Referrals – Non-Licensee	463
Administrative Non-Licensee Citations	205
Total Legal Actions	917

Contractors' State License Board Stop Orders

There were 323 stop orders served on construction employers, which prohibits the use of employee labor until workers' compensation insurance is obtained.

Licensee Stop Orders Issued	154
Unlicensed Operator Stop Orders Issued	169
Total Stop Orders Issued	323
Policies Obtained	93
Licenses Suspended	38

Contractors' State License Board Stings and Sweeps

The CSLB performed 72 stings and 82 sweeps during the calendar year 2014. The sting operations targeted unlicensed repeat offenders and wanted criminals who work in the construction industry.

Region	Stings	Sweeps
Central	28	24
Northern	20	18
Southern	24	40
Totals	72	82

United States Department of Labor Garment Industry Investigations

Completed Investigations	219
Back Wages	\$2,117,134
Civil Money Penalties	\$53,936
Number of Employees Affected	2,450

United States Department of Labor Recycling Center Investigations

Completed Investigations	3
Back Wages	\$38,000 (+\$38,000 liquidated damages)
Civil Money Penalties	\$3,003
Number of Employees Affected	13

Division of Labor Standards Enforcement Results

Industry	Number of Inspections	Number of Citations	Total Dollar Amount of Penalties Assessed
Automotive	26	34	\$264,645
Car Wash	2	1	\$1,500
Construction	134	72	\$512,623
Garment	1	0	0
Other	161	137	\$3,599,053
Restaurant	73	80	\$873,803
Retail	34	50	\$214,128
Total	431	374	\$5,465,752

License Suspensions/Holds Requested

There are three types of licenses that the EDD can request other state agencies to suspend/hold if the licensee is delinquent in paying amounts due to the EDD:

- Contractor's License (CSLB Hold): The Business and Professions Code (B&PC) Section 7145.5 authorizes the CSLB to take disciplinary action against a license holder. Once the CSLB receives the request from the EDD to place a hold, the CSLB will suspend the license. In addition, the CSLB will search their database for all licenses with the same personnel of record and suspend those licenses as well. The licenses remain suspended until the delinquency that led to the suspension has been resolved or arrangements have been made to pay it.
- Liquor License (ABC Hold): The B&PC Section 24049 authorizes the EDD to request from the ABC a hold to be placed on certain types of liquor licenses. A hold establishes a priority for the EDD to any monies received from the sale of the liquor license and prevents the transfer of a liquor license from the seller to a buyer until the conditions of the hold have been met.
- Farm Labor Contractor's License (FLC Hold): The EDD is authorized by Section 1141 of the CUIIC to notify the Labor Commissioner (of the DLSE) in writing that an FLC is delinquent in payment of worker contributions either by self-assessment or by a final EDD assessment. Labor Code Section 1690.1 authorizes the Labor Commissioner to refuse to issue or renew any license until the licensee has fully paid the amount of the delinquency.

Calendar Year 2014 License Suspensions/Holds by Category Requested by the EDD

CSLB	ABC	FLC
365	63	11

Contractors' State License Board License Suspensions

This summarizes amounts due to state agencies that resulted in license suspension or may result in license suspensions due to collection efforts in 2014. This also includes collection amounts recovered to avoid a license suspension. A license can be suspended by the CSLB if the licensee is delinquent in paying amounts due to the CSLB or other state agencies.

Department	Amounts due that resulted in/or may result in contractor license suspensions during calendar year 2014	Amounts collected or resolved during calendar year 2014 (results affected by timing differences)
CSLB	\$145,559	\$149,613
EDD	\$31,252,279	\$23,943,050
DIR-Division of Occupational Safety and Health	\$352,115	\$265,788
DIR-DLSE	\$3,641,415	\$1,567,303
FTB	\$7,529,999	\$3,901,471
Totals	\$42,921,367	\$29,827,225

Informant Contacts

Allegations of violation of payroll tax, labor, and licensing laws may be reported by telephone to the toll-free JESF hotline 800-528-1783. Informants may also submit information about state payroll tax fraud by completing a [Fraud Reporting Form](#) online via the EDD website, via e-mail to ueo@edd.ca.gov, via fax to 916-227-2772, or by completing and submitting an *Underground Economy Operations Lead Referral/Complaint Form*, available in English ([DE 660](#)) and Spanish ([DE 660/S/](#)). In 2014, the EDD received:

- 3,596 allegations via telephone calls to the JESF hotline.
- 1,267 allegations via online submission.
- 157 allegations via correspondence.
- 5,020 total allegations received.

Publicity and Marketing Outreach Strategies

The JESF publicizes its activities, outreach, and education on the underground economy through the following:

- The website www.edd.ca.gov/Payroll_Taxes/Joint_Enforcement_Strike_Force.htm received 2,913 “hits” in calendar year 2014. It was created to:
 - Provide information on how to report fraud to the JESF.

- Educate readers about the harm caused by the underground economy.
 - Publicize the work being done by California state government and partner agencies.
 - Deter fraudulent activity by communicating that California state government will actively pursue and punish those who participate in the underground economy.
 - Provide contact information for each of the partner agencies.
- Information on the underground economy is included on the following website: www.edd.ca.gov/Payroll_Taxes/Underground_Economy_Operations.htm. It provides the viewer with data, access to prior reports, program and operation information, etc. In calendar year 2014, the website received 9,263 "hits."
 - A variety of information sheets and publications are available to the public, businesses, and taxpayers. These publications include:
 - *Joint Enforcement Strike Force Brochure* (DE 665)
 - *Information Sheet: Employment Enforcement Task Force* (DE 631)
 - *Information Sheet: Employment Development Department Underground Economy Operations* (DE 631UEO)

The JESF member agency staff conducts outreach presentations to business and labor organizations throughout the state and to representatives of local government agencies.

Information Sharing

Businesses that operate in the underground economy constantly develop new schemes to avoid detection of their illegal activities. As these new schemes are identified by the JESF members, information regarding the schemes is shared with member agencies, business associations, and labor organizations. There is an ongoing need for the JESF staff to be aware of the various types of schemes used in industries prone to underground economy activity. This knowledge transfer facilitates the development of detection and enforcement techniques necessary to stop the illegal activities. Information is shared as follows:

- On-the-job.
- Informal ad-hoc joint management meetings.
- Semi-annual management meetings with member agencies.

Collaboration

Collaborative efforts among the JESF member agencies continue to grow. The operations of the Employment Enforcement Task Force (EETF) have forged closer ties and improved coordination of enforcement activities among the EDD, the DIR, and the DCA. Among the DCA's entities, the CSLB, the BAR, and the BSIS have been active participants in the EETF. These joint operations have improved program results for all of the participating agencies. A coordinated effort now exists that involves not only the JESF member agencies, but also other local, federal, and state entities.

The Interagency Tax Collection Committee is an alliance with the EDD, the FTB, the BOE, the IRS, the Attorney General, the State Controller, and various county recorders. It provides a forum to share common collection practices in order to increase compliance and resolve collection issues. It also allows the agencies to meet and share information about their collection programs, focusing on common, competing, and overlapping functions including bankruptcy, lien, and levy issues. It is intended to foster communications and allow collection staff to meet their counterparts, establish working relationships, and encourage cooperation on common tax collection issues.

The Interagency Tax Collection Committee formed the Liquor License Task Force consisting of representatives from the EDD, the BOE, and the FTB. The task force received and compiled recommendations from each agency on how to collaboratively handle the seizure and sale of liquor licenses. An agreement was finalized in the fall of 2014. It establishes the procedures for the disbursement of funds and the release of transfer holds when liquor licenses issued by the ABC are seized and sold by one of the state tax agencies.

In the latter part of 2013, a collaborative enforcement partnership was formed between the JESF and the Labor Enforcement Task Force, which conducts on-site compliance inspections on targeted industries within designated geographic locations. Both programs have special focus, talent, and strength. The JESF and the Labor Enforcement Task Force remain under the guidance of their respective programs, while taking advantage of opportunities to more effectively streamline operations, leverage resources and mitigate overlap, and increase overall coordination. The result is broader statewide operations, stronger communications, and more knowledgeable cross-trained staff. Collaborative efforts are expected to continue to grow as the operations of the JESF become more successful and as other agencies become more aware that collaborative efforts produce positive results.

During the past several years, Memoranda of Understanding have been developed to facilitate the sharing of information and data between enforcement partner agencies and to enhance collaboration and joint enforcement of labor, tax, and licensing laws.

As the lead agency, the EDD participates in all JESF inspections. The other JESF partners participate in inspections when there is a potential violation of the laws they administer. The table below highlights JESF collaboration efforts. It shows the number of business inspections that partner agencies participated in during calendar year 2014.

EDD	DLSE	CSLB	Local Police	District Attorney	ABC	BOE	BAR	BSIS	Other
614	431	161	88	71	13	8	7	3	159

Recommendations for Statutory Changes

Section 329(a) of the CUIC cites the Office of Criminal Justice Planning as a member of the JESF; however, the Office of Criminal Justice Planning no longer exists. It is recommended that Section 329(a) be amended to remove the Office of Criminal Justice Planning from the listing of statutory JESF member agencies.

BLATANT VIOLATOR CASES

The following examples of blatant violation cases detected by the JESF include the most flagrant cases where schemes were used by businesses to avoid payroll tax, labor, insurance, and licensing laws, and where the EDD found fraud or intent to evade payment of payroll taxes.

Blatant Violator Inspection Cases

- To ensure prospective compliance, the EDD conducted a follow-up investigation on a towing business that had been previously audited. The business operated as a corporation. The first audit covered the period of 2005 through 2007. During the previous audit, a determination was made that the tow truck drivers were misclassified as independent contractors but were determined to be employees. The EDD received information that the corporation was subsequently paying its tow truck drivers commission on a weekly basis by business check and provided the workers Form 1099s at the end of the year, rather than Form W-2s. During the subsequent audit, it was found that the employer had disregarded the prior audit determination and continued to issue Form 1099s to its tow truck drivers. The audit covered a six year period. A fraud penalty was charged under Section 1128 of the CUIA for intent to evade. The corporation was assessed \$125,928 for unpaid payroll taxes, penalties, and interest.
- The EDD and the DLSE conducted an investigation of a corporation operating a wholesale internet business that sells candy, candy machines, vending machines, tobacco and other tobacco related products. The EDD received a complaint that some workers were being paid in cash and other workers were being paid half in cash and half by check. The business has been operating for 11 years and reported seven employees to the EDD on a quarterly basis. The employees provided services as administrative staff, sales representatives, shippers, and packers. A subsequent EDD audit revealed that the business attempted to conceal the unreported wages of 20 workers. The company was found to have significantly underreported the number of workers and the amount of wages that were paid. The audit covered an eight year period. A fraud penalty was charged under Section 1128 of the CUIA for intent to evade and failure to reflect all payments made to workers on Form W-2. The corporation was assessed \$742,873 for unpaid payroll taxes, penalties, and interest.
- The EDD, the CSLB SWIFT Unit, and the DLSE conducted an inspection of a corporation in the construction industry that provides remodeling and renovation services on single-family homes. The business specializes in kitchens and bathrooms. On the day of the inspection, four workers were found at the construction site performing services. Citations were issued by the DLSE for failure to provide itemized wage and deduction statements and failure to have workers' compensation insurance. A subsequent EDD audit revealed that the workers were paid unreported cash wages. Although the corporation was registered with the EDD, the business failed to file wage reports. In addition, the business failed to provide adequate records for the audit. The audit covered a six year period. A fraud penalty was

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charged under Section 1128 of the CUIA for intent to evade and failure to reflect all payments made to workers on Form W-2. The corporation was assessed \$308,229 for unpaid payroll taxes, penalties, and interest.

- The EDD and the DLSE conducted an investigation of a restaurant operating as a Limited Liability Company (LLC). The business has two locations in the Monterey Bay area. The business began operating in 1994, registered with the EDD, and employed more than 20 employees. It was found during the inspection that workers were being paid in unreported cash. During a subsequent audit, the employer admitted to paying employees in cash without keeping any records and not issuing itemized wage statements. The employer also acknowledged paying temporary workers in cash since they did not know how long the temporary workers would be needed at the business. A fraud penalty was charged under Section 1128 of the CUIA for intent to evade and failure to reflect all payments made to workers on Form W-2. The LLC was assessed \$673,862 for unpaid payroll taxes, penalties, and interest.
- The EDD, the CDI, the CSLB, and the Santa Clara District Attorney's office conducted a job-site inspection of a construction business operating as a sole-proprietorship. The business specializes in roofing. During the inspection, the employer was evasive and changed his story numerous times. During a subsequent audit, the employer again changed his story and indicated he did not have employees. The employer would not provide adequate records for the audit. Interviews with workers indicated they were being paid by check from an undisclosed account. The audit covered a ten year period. A fraud penalty was charged under Section 1128 of the CUIA for intent to evade and failure to reflect all payments made to workers on Form W-2. The employer was assessed \$207,494 for unpaid payroll taxes, penalties, and interest.

Other Blatant Violator Investigation Cases

- An EDD Agent conducted an investigation based on a referral received from the DIR on a Public Works general construction contractor in the Bakersfield area. The DIR had conducted an audit of this employer and found that they were not reporting all wage payments. The case was referred to the EDD's Fresno Area Audit Office and a field audit was conducted. The audit revealed that the employer was making payroll deductions from his 105 employees but had not reported the wage information or remitted the taxes to the EDD for a period of over four years. The employer was assessed \$1,245,672 for unpaid payroll taxes, penalties, and interest.
- An EDD Agent conducted an investigation based on an anonymous complaint filed about a general construction company in Westlake Village. The informant alleged that the employer was misclassifying workers as independent contractors. However, the workers were treated as employees and were required to complete time cards. The case was referred to the EDD's Van Nuys Area Audit Office and a field audit was conducted. The employer did not provide complete business records for review

ATTACHMENT A

and failed to report the wages of two additional employees. The employer was assessed \$155,293 for unpaid payroll taxes, penalties, and interest.

- An EDD Agent conducted an investigation based on a system generated lead on a pallet manufacturing and sales company in Modesto. The investigation revealed that the employer was previously audited by the EDD in 2005 and was assessed for unreported wages. The case was referred to the EDD's Fresno Area Audit Office and a field audit was conducted. The audit revealed that the employer did not keep adequate payroll records that documented all transactions. The employer was determined to have paid workers in cash and underreported those wages. The employer was assessed \$91,769 for unpaid payroll taxes, penalties, and interest.
- An EDD Agent conducted an investigation based on a CSLB interagency lead referral received on a general building contractor operating in the Los Angeles area. The investigation revealed that the employer had previously been audited by the EDD in 2008 and was assessed for unreported wages paid to unlicensed subcontractors and telephone sales people. The case was referred to the EDD's Santa Fe Springs Area Audit Office and a field audit was conducted. The audit revealed that the employer paid workers from his personal bank account, did not inform his accountant of those payments, and failed to report the wages of 27 employees. The employer was assessed \$96,187 for unpaid payroll taxes, penalties, and interest.
- An EDD Agent conducted an investigation based on an anonymous complaint filed about a restaurant operating in Yucaipa. The informant alleged that the employer was paying several employees in unreported cash. The case was referred to the EDD's San Bernardino Area Audit Office and a field audit was conducted. The audit revealed that the employer failed to report wages for nine workers (servers and cashiers). The employer also admitted to the EDD auditor that he was paying a manager in cash to help her avoid IRS wage garnishments due to outstanding tax liabilities. The employer was assessed \$148,375 for unpaid payroll taxes, penalties, and interest.
- An EDD Agent conducted an investigation based on a complaint received from an employee union representative about a contractor's actions on a public works contract. The employer is a heating and air conditioning contractor operating in the Banning area. The union representative alleged that workers were listed on the Certified Payroll Reports but not reported to the EDD for payroll purposes and that the employer altered the Certified Payroll Reports. The case was referred to the EDD's San Bernardino Area Audit Office and a field audit was conducted. The audit revealed that the business is an 'S' corporation and none of the officers were reported on payroll. Their payments were classified as "draws." The corporation was determined to have paid unreported cash wages to statutory employees and failed to report the wages paid to 40 additional employees. The corporation was assessed \$121,367 for unpaid payroll taxes, penalties, and interest.

Joint Criminal Prosecution Cases

The JESF member agencies refer cases to their respective criminal investigation organizations. The following are examples of cases that the JESF member agencies worked together to prosecute in 2014.

- The EDD's Investigation Division and the Napa County District Attorney conducted a joint criminal investigation of a general contractor in Napa County. It was alleged that the employer did not accurately report payroll to the EDD and the State Compensation Insurance Fund. The total tax liability due to the EDD with penalties and interest was \$345,704.

The employer pleaded no contest to one felony count of Section 2117.5 of the CUIIC (failure to file returns and filing of fraudulent returns), one felony count of Section 11880(a) of the California Insurance Code (CIC) (workers' compensation insurance fraud), and one felony count of Section 487 of the Penal Code (grand theft). Restitution of \$75,000 for the tax liability was paid to the EDD and restitution of \$15,000 was paid to the State Compensation Insurance Fund. The defendant was also sentenced to 120 days in the county jail and three years of formal probation.

- The Investigation Division conducted a joint criminal investigation with the San Bernardino District Attorney's Office. The employer repaired spas in the Big Bear area and was alleged to be paying workers cash without reporting to the EDD.

The employer pleaded guilty to a felony violation of Section 2117.5 of the CUIIC (failure to file returns and filing of fraudulent returns). The terms of the plea include an agreement that he serve no further custody time (unless he violates probation) and that he pays back taxes in the amount of \$17,580 to the EDD. Pursuant to the felony plea, the remaining count against this defendant, Section 182(a)(5) of the Penal Code charge (conspiracy to obstruct justice), was dismissed.

- The Investigation Division and the Riverside County District Attorney conducted a joint criminal investigation of a grading contractor. The employer was alleged to have paid workers in cash under the table and not reported the wages to the EDD. The total tax liability due to the EDD with penalties and interest was \$325,425.

Both the husband and wife owners were charged with tax evasion violations of Sections 2117.5 and 2118.5 of the CUIIC, Section 11880(A) of the CIC, and Section 12022.6(a)(1) of the Penal Code. They both served time in county jail and were sentenced to three years of formal probation. They were ordered to pay the EDD restitution in the amount of \$68,672 at the time of sentencing.

- The Investigation Division and the Santa Clara County District Attorney's Office conducted a joint criminal investigation of a general contractor in Santa Clara County. The employer paid workers in cash and did not report the wages to the EDD. The total tax liability due to the EDD with penalties and interest was \$466,158.

ATTACHMENT A

The husband and wife owners both pleaded no contest in court. The wife pleaded to one felony count of Section 2108 of the CUIIC (willful failure to pay contributions), one felony count of Section 11760(a) of the CIC (workers' compensation premium fraud), and one felony count of Section 1871.4(a)(3) of the CIC (conspiring to dissuade a workers' compensation claim). The husband pleaded to one felony count of Section 1871.4(a)(4) of the CIC (dissuading a worker from making a workers' compensation claim) plus one "Strike" prior. He was not charged with EDD violations. The wife will be sentenced to six months in jail. She was ordered to pay the EDD restitution of \$139,528.

ATTACHMENT B

ACRONYMS

ABC	California Department of Alcoholic Beverage Control
BAR	Bureau of Automotive Repair
BOE	Board of Equalization
BSIS	Bureau of Security and Investigative Services
CDI	California Department of Insurance
CIB	Criminal Investigation Bureau
CIC	California Insurance Code
CSLB	Contractors' State License Board
CUIC	California Unemployment Insurance Code
DCA	Department of Consumer Affairs
DIR	Department of Industrial Relations
DLSE	Division of Labor Standards Enforcement
EDD	Employment Development Department
EETF	Employment Enforcement Task Force
FLC	Farm Labor Contractor
FTB	Franchise Tax Board
HVAC	Heating, Ventilation, and Air Conditioning
IRS	Internal Revenue Service
JESF	Joint Enforcement Strike Force
TEG	Tax Enforcement Group
USDOL	United States Department of Labor



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